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SEP 22 2021	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY:	DEPUTY

1 Ramon Marga  
 2 [print name above]

3 High Desert State Prison  
 4 [name of prison, jail or other detention facility]

5 83082  
 6 [booking number at prison, jail or other detention facility]

7 P.O. Box 650  
 8 [street address or P.O. Box]

9 Indian Springs NV 89070  
 10 [city, state, and zip code]

11 Appearing Pro Se

**2:21-cv-01743-APG-BNW**

10 IN THE UNITED STATES DISTRICT COURT  
 11  
 12 FOR THE DISTRICT OF NEVADA

13 )  
 14 Ramon Marga, )  
 15 [print name] )  
 16 Petitioner, )  
 17 v. )  
 18 Brian E Williams, SR. )  
 19 [warden of facility in which you are incarcerated] )  
 20 Respondent. )

No. \_\_\_\_\_  
 [Write in case number, if you have one. If you are mailing  
 this to the court with a new petition and do not have a case  
 number, leave this blank for court clerk to fill in]

**EX-PARTE**  
**REQUEST FOR APPOINTMENT OF**  
**COUNSEL IN A FEDERAL HABEAS CORPUS**  
**CASE**

21 I. Introduction

22 Petitioner Ramon Marga [print name] hereby respectfully  
 23 requests that the Court appoint counsel to represent him/her in this matter.

24 Habeas corpus proceedings "are of fundamental importance . . . in our constitutional scheme  
 25 because they directly protect our most valued rights." *Brown v. Vasquez*, 952 F.2d 1164, 1169 (9th Cir.  
 26 1991) (quoting *Bounds v. Smith*, 430 U.S. 817, 827 (1977)) (citations and internal quotations omitted).  
 27 Consequently, pursuant to 18 U.S.C. § 3006A(a)(2)(B), this Court has the authority to appoint counsel to

1 assist an indigent Petitioner if the interests of justice so require. In the present case, Petitioner does not  
2 have the financial resources to retain counsel. See Application to Proceed Without Prepayment of Fees  
3 and Affidavit (In Forma Pauperis). Rule 8(c) of the Habeas Rules makes clear that district judges have the  
4 discretion to order “the appointment of counsel under [the Criminal Justice Act] at any stage of the  
5 proceeding.”

6 In deciding whether to appoint counsel, this Court must “evaluate [1] the likelihood of success on  
7 the merits as well as [2] the ability of the petitioner to articulate his claims pro se in light of the  
8 complexity of the legal issues involved.” *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983); *accord*  
9 *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997). As discussed at length in one treatise,  
10 the courts generally have endorsed the appointment of counsel to represent indigent and legally  
11 unsophisticated prisoners in the following types of non-capital cases:

12 (1) Cases that turn on substantial and complex procedural, legal or mixed legal and factual  
13 questions (e.g., the fair composition of grand and petit juries, the voluntariness of  
confessions, and the effective assistance of counsel).

14 (2) Cases involving uneducated or mentally or physically impaired petitioners.

15 (3) Cases likely to require the assistance of experts either in framing or in trying the claims.

16 (4) Cases in which ““the indigent is in no position to investigate crucial facts.””

17 (5) Factually complex cases, e.g., ones involving “conflicting testimony,” in which the truth  
18 is more likely to “be exposed where both sides are represented by those trained in the  
presentation of evidence.”

19 1 R. Hertz & J. Liebman, *Federal Habeas Corpus Practice and Procedure*, § 12.3 (5th ed. 2005) (internal  
20 quotations and citations omitted, numbering altered).

21 In addition, appointment of counsel is mandatory for indigent noncapital petitioners (a) when  
22 counsel is ““necessary for effective [use of the] discovery”” procedures<sup>1</sup> and (b) pursuant to Habeas Rule  
23 8(c), if the district court determines that “an evidentiary hearing is warranted.”<sup>2</sup>

24 As set forth below, appointment of counsel is appropriate in this case.

25  
26  
27 <sup>1</sup> Rule 6(a) of the Rules Governing Section 2254 Cases in the United States District Courts.  
28

<sup>2</sup> Rule 8(c) of the Rules Governing Section 2254 Cases in the United States District Courts.

1 IA Additional Relevant Facts and Procedural History

2 Petitioner was convicted of: [List all offense(s) for which you were convicted]

3 Conspiracy to Violate Uniform Act C-1 and Court 2, High Level Trafficking

4 Length of terms of sentence(s):

5 10 to 25 years

6 A. DIRECT APPEAL

7 Petitioner DID/DID NOT [circle one] file a Direct Appeal.

8 Petitioner WAS/WAS NOT [circle one] Represented by Counsel or N/A.

9 Petitioner raised [number] of issues on Direct Appeal or N/A.

10 B. STATE HABEAS

11 Petitioner DID/DID NOT [circle one] file a state habeas petition.

12 Petitioner WAS/WAS NOT [circle one] Represented by Counsel or N/A.

13 Petitioner raised [number] issues in the state habeas,  
which also included [number] claims of ineffective  
assistance of counsel.

14 C. APPEAL OF DENIAL OF STATE HABEAS

15 Petitioner DID/DID NOT [circle one] appeal the denial of habeas.

16 Petitioner WAS/WAS NOT [circle one] Represented by Counsel or N/A.

17 D. OTHER PROCEEDINGS:

18 Petitioner also presented the following issues to the Nevada  
Supreme Court (If Applicable)(i.e. appeal of Motion to Modify)

19 1.

20 2.

21 3.

22 4.

23 5.

24 \* = Petitioner was represented by Counsel in 1-5.

25 [place a [\*] next to all that apply]  
Petitioner WAS/WAS NOT allowed DISCOVERY [circle all that apply]:  
DIRECT APPEAL / STATE HABEAS / OTHER [name]  
[or list # 1-5]

26 Petitioner WAS/WAS NOT provided a Hearing [circle all that apply]:  
DIRECT APPEAL (oral argument) HABEAS (evidentiary) OTHER

[or list 1-5]

1      II. Argument

- 2      A. Appointment of counsel is appropriate because this case involves substantial and complex  
3      procedural, legal or mixed legal and factual questions.

4      [If your case involves substantial or complex legal and factual issues, explain]

5      it involve a Scheme for Categorizing meth  
6      From Schedule 2 to Schedule -1 for a harder  
7      Punishment. Depending on circumstances of manufac  
8      turing was the State required to prove that the Substance  
9      Seized in this Case was Schedule -1 as an element of  
10     the Crime under Figueroa-Beltran, 136 Nev Advance  
11     Opinion 45

- 12     B. Appointment of counsel is appropriate because petitioner lacks education or is mentally  
13     or physically impaired.

14     [If you lack education or are physically or mentally disabled/impaired, explain]

15     is hard to Comprehend Because There is  
16     a language barrier

1 C. Appointment of counsel is appropriate because this case will probably require the  
2 assistance of experts either in framing or in proving the claims.

3 [If you will need the assistance of an expert (e.g. a psychologist, a scientist) to explain your claim or to help you prove your  
4 claim, explain]

5 it Requires the Board of Pharmacy and  
6 expert

7  
8  
9  
10 D. Appointment of counsel is appropriate because the petitioner is indigent and is in no  
11 position to investigate crucial facts.

12 [If you will have difficulty investigating the facts in your case because you lack money to hire an investigator and you cannot do  
13 your own investigation because, for example, you are in prison, explain]

14  
15 I Dont have any money to pay for representation  
16 of an Attorney that can investigate

- 1           E. Appointment of counsel is appropriate because this is a case in which the parties dispute  
2           the facts, and thus the truth is more likely to "be exposed where both sides are  
3           represented by those trained in the presentation of evidence."

4           [If your case involves disputed facts (for example you and the government dispute whether you rejected a plea offer), explain]

5           Because is going to expose a schem for  
6           a harder punishment that the State is using  
7           till This Day

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12           E. LIMITATIONS OF THE HDSP LAW LIBRARY AND MAILING SYSTEM

13           Petitioner is currently incarcerated at HDSP and is housed in  
14           Unit 5B, which is classified as Level 2.

15

16           1. Limitations of the HDSP Law Library

17           As of the date of the filing of this Motion, Unit 5, is  
18           Level 2, only has access to the HDSP law library on \_\_\_\_\_  
19           (day) from \_\_\_\_\_ to \_\_\_\_\_ (time) and on \_\_\_\_\_ (day) from \_\_\_\_\_  
20           to \_\_\_\_\_ (time) or HAS NO DIRECT ACCESS (circle if applicable).

21           The law library only allows up to 25 inmates per session out  
22           of approximately 300 + inmates. Requests must be submitted one  
23           week in advance for consideration to be placed on an approved list.  
24           If your unit has access you are required to attend the law library  
25           in order to check out cases, research materials, forms, obtain any  
26           copies and seek the assistance of law clerks. No requests may be  
27           filled by mail.

1       Up to 10 items may be checked out at a time. No books are  
2       available for checkout and cases and statutes are only available  
3       on a computer retrieval system which has approximately 7 available  
4       stations for 25 inmates, first come, first served.

5       The inadequacies of the NDOC law library system has been lit-  
6       igated in Koershner v. Warden, 508 F.Supp. 2d 849 (Nev. 2007) and  
7       other cases, See, Moxley v. Neven, 2:07-cv-01123-RLH-GWF (D. Nev.  
8       Sep. 30, 2010, cited in Felix v. McDaniel, 2012 U.S. Dist. Lexis  
9       25890.

10      2. Limitations of the HDSP Mailing System

11      As of March of 2012, outgoing legal mail is not logged at  
12      HDSP. If an inmate sends mail by a brass slip to cover the cost  
13      a further delay of 1-2 days occurs while the brass slip is pro-  
14      cessed. If stamps are used to mail out legal mail there is no record  
15      of it kept at HDSP. Inmates are also limited in the amount of  
16      stamps that they are allowed to purchase and possess and there is  
17      no method in the units to determine sufficient postage for items  
18      which may require excess postage.

19      Incomming mail, while logged, is subject to delays and is  
20      often delivered after the close of afternoon tier. Therefore any  
21      response is delayed as the outgoing mail is delivered to the post  
22      office for delivery the next business day it is placed in internal  
23      mailboxes.

24      As to the above Law Library and Mail policies, I have been  
25      prejudiced or harmed as follows: [Explain if Applicable]

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1 Argument F - Continued.

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11 G. Any Additional Factors for the Court's Consideration.

12 [Explain any other reasons for appointment of counsel,  
if applicable]

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17 III. Conclusion

18 This Court has the authority and should appoint counsel for Petitioner pursuant to 18 U.S.C.  
19 §3006A (a)(2)(B). Appointment of counsel will serve the interests of justice and judicial expedience and  
20 economy.

21

22

Respectfully submitted,

23

Dated: 9-20-2021

24

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27

28

Ramon Marga  
[signature]  
Ramon Marga 83082  
[type or print name]